

AN ORDINANCE 2006-03-30-0408

ACCEPTING THE LOWEST RESPONSIVE BID AND AUTHORIZING A CONSTRUCTION CONTRACT WITH CLARK CONSTRUCTION OF TEXAS, LTD., IN CONNECTION WITH THE ALAMO – DURANGO TO CEDAR PROJECT AND ST. MARY’S – ALAMO TO PEREIDA PROJECT, LOCATED IN DISTRICT 1; AND APPROPRIATING A TOTAL AMOUNT OF \$1,199,982.87 FROM CERTIFICATES OF OBLIGATION.

* * * * *

WHEREAS, bids were submitted in connection with the Alamo – Durango to Cedar Project and St. Mary’s – Alamo to Pereida Project and opened on December 14, 2005; and

WHEREAS, this Ordinance accepts the lowest responsive base bid with Additive Alternative #4 submitted by **Clark Construction of Texas, Ltd.**, in the amount of \$1,017,827.42 for the Project, authorizes \$101,782.74 for project contingency, \$78,372.71 for capital administrative costs, and \$2,000.00 for advertising expenses; and

WHEREAS, approval of this Ordinance will be a continuation of City Council policy to complete previously approved Certificate of Obligation funded Capital Improvement Projects;
NOW THEREFORE;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The low responsive base bid with Additive Alternate #4 of **Clark Construction of Texas, Ltd.** in the amount of \$1,017,827.42 is hereby accepted. All other bids received on this Project are rejected upon the occurrence of either the execution of a contract by the low responsible bidder and the deposit of all required bonds and insurance certificates, or the expiration of ninety (90) days from the date of this Ordinance, whichever occurs first.

SECTION 2. The City Manager or her designee is hereby authorized to execute a standard form contract covering said Project, a copy of which appears in substantially the same form attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 3. The following financial adjustments are hereby approved:

A. The amount of \$433,000.00 is appropriated in fund 43506001, 2004 Certificates of Obligation Streets MPO Future Match, WBS CO-00049-01-01-34 GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00647-90-06. The amount of \$433,000.00 is authorized to be transferred to fund 43099000.

B. The budget in fund 43099000, Project Definition 23-00647 Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-90-06 entitled Trf Fr CO-00049-01-01-34, GL account 6101100 – Interfund Transfer In, by the amount of \$433,000.00.

C. The amount of \$370,000.00 is appropriated in fund 43172000, 2002 Street Improvement, WBS CO-00030-01-01-68 GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00694-90-10. The amount of \$370,000.00 is authorized to be transferred to fund 43099000.

D. The budget in fund 43099000, Project Definition 23-00647 Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-90-10 entitled Trf Fr CO-00030-01-01-68, GL account 6101100 – Interfund Transfer In, by the amount of \$370,000.00.

E. The amount of \$123,000.00 is appropriated in fund 43901003, 2005 Certificates of Obligation Streets, WBS CO-20052-01-01-08 GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00647-90-09. The amount of \$123,000.00 is authorized to be transferred to fund 43099000.

F. The budget in fund 43099000, Project Definition 23-00647 Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-90-09 entitled Trf Fr CO-20052-01-01-08, GL account 6101100 – Interfund Transfer In, by the amount of \$123,000.00.

G. The amount of \$9,986.64 is appropriated in fund 45099000, General Obligation Capital Projects, WBS 23-00693-90-04 GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00647-90-11. The amount of \$9,986.64 is authorized to be transferred to fund 43099000.

H. The budget in fund 43099000, Project Definition 23-00647 Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-90-11 entitled Trf Fr 23-00693-90-04, GL account 6101100 – Interfund Transfer In, by the amount of \$9,986.64.

I. The amount of \$1,017,827.42 is appropriated in Fund 43099000, Certificates of Obligation Capital Projects, Project Definition 23-00647, Alamo – Durango to Cedar, WBS element 23-00647-05-02-01, entitled City Construction, is authorized to be encumbered and made payable to Clark Construction of Texas, Ltd.

J. The budget in Fund 43099000, Certificates of Obligation Capital Projects, Project Definition 23-00647, Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-05-06, entitled Project Contingency, in the amount of \$79,390.54.

K. The budget in Fund 43099000, Certificates of Obligation Capital Projects, Project Definition 23-00647, Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-05-04, entitled Construction Capital Administration Costs, in the amount of \$61,130.71.

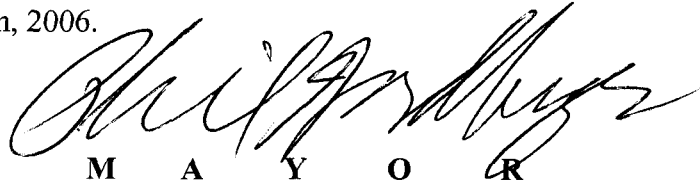
L. The budget in Fund 43099000, Certificates of Obligation Capital Projects, Project Definition 23-00647, Alamo – Durango to Cedar, shall be revised by increasing WBS element 23-00647-05-01, entitled Advertise, in the amount of \$1,560.00.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers,

SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance shall be effective on April 9, 2006.

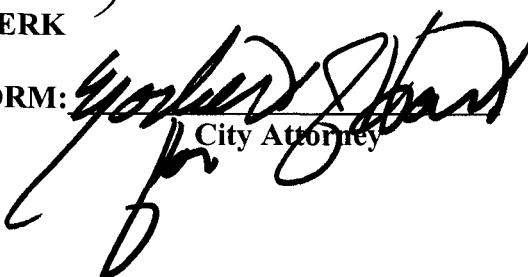
PASSED AND APPROVED this the 30th day of March, 2006.



M A Y O R

PHIL HARDBERGER

ATTEST: 
CITY CLERK

APPROVED AS TO FORM: 
City Attorney

THE CITY OF SAN ANTONIO

CALENDAR DAY CONTRACT

THIS AGREEMENT made the _____ day of _____ in the year **TWO THOUSAND SIX (2006)** by and between **CLARK CONSTRUCTION OF TEXAS, LTD.**, hereinafter called the "Contractor", and the City of San Antonio, Texas, hereinafter called the "City or the "Owner".

WITNESSETH, that the Contractor and the Owner for the consideration hereinafter named agree as follows:

Article 1. Scope of the Work - The Contractor shall furnish all the materials and perform all the Work called for in the Contract Documents and more specifically described in the Plans and Specification for the Project entitled:

STREET OVERLAY AND SIDEWALK RECONSTRUCTION SOUTH ALAMO AND ST. MARY'S STREET

DURANGO TO CEDAR BOULEVARD AND SOUTH ALAMO STREET TO PEREIDA

Prepared by HNTB Corporation, acting as, and in these Contract Documents entitled, the Project Design "Consultant".

Article 2. Time of Completion - The Contractor shall begin Work at the job site within seven (7) calendar days after the date of the Owner's written Authorization to Proceed issued by the Owner's Representative. The Work to be performed under this Agreement is to be completed by Contractor in **ONE HUNDRED TWENTY (120) Calendar Days**. For each Calendar Day that any Work is not completed after the expiration of Calendar Days stated above, plus any Extended Calendar Days granted by Owner in accordance with the Contract Documents, the sum as shown in the table below will be deducted from the money due or to become due the Contractor, not as a penalty, but as mutually agreed to liquidated damages and added expense for Owner Contract administration, not otherwise susceptible to exact determination by Owner and Contractor prior to the execution of this Agreement.

<u>Amount of Contract</u>	<u>Liquidated Damages per Day</u>
\$1,000,001 or Over	\$700.00
\$ 750,001 to \$1,000,000	\$600.00
\$ 500,001 to \$ 750,000	\$500.00
\$ 250,001 to \$ 500,000	\$400.00
\$ 100,001 to \$ 250,000	\$300.00
\$ 50,001 to \$ 100,000	\$200.00
\$ 1 to \$ 50,000	\$100.00

Attachment I

To Ordinance No. _____
Approved on March 30, 2006

Article 3. The Contract Sum - The Owner shall pay the Contractor for the proper performance of the Contract, subject to additions and deduction provided therein, the Contract sum of:

Materials and Services: ONE MILLION, SEVENTEEN THOUSAND, EIGHT HUNDRED TWENTY-SEVEN DOLLARS AND FORTY-TWO CENTS Dollars, (\$1,017,827.42)

Article 4. Partial Payment - Each month, the Owner shall make a progress payment as approved by the Owner's Representative in accordance with Article VII of the General Conditions.

Article 5. Acceptance and Final Payment - Final Payment shall be due on final Owner acceptance of the Project Work, provided the Contract has been completed by Contractor as provided in Article IX of the General Conditions.

Before issuance of the final payment, the Contractor shall submit an affidavit and reasonable additional supporting evidence if required, as satisfactory to the Director of Finance, City of San Antonio, that all labor payrolls, construction materials and supply bills, subcontractors, and other indebtedness connected with the Work have been paid in full, or that an outstanding debt is being disputed and that the corporate surety or its agent is processing the outstanding claim and is willing to defend and/or indemnify the City should the City make final Contract payment.

Article 6. The Contract Documents - This Calendar Day Contract (Standard Form) the General Conditions, Special Conditions, Supplemental Conditions, Specifications, Addenda, Completed Bid Proposal Form, Invitation For Bids, Instructions to Bidders, Plans, Field Directives, Field Alterations, and Payment, Performance and Extended Warranty Bonds, form the Contract Documents and they are as fully a part of this Agreement as if hereto attached or herein repeated.

IN WITNESS WHEREOF, said City of San Antonio has lawfully caused these presents to be executed by the City Manager of said City, and the corporate seal of said City to be hereunto affixed and this instrument to be attested to by the City Clerk;

DONE at San Antonio, Texas, on the day and year first written above.

CITY OF SAN ANTONIO

By: _____
City Manager

ATTEST:

City Clerk

IN WITNESS WHEREOF, said Contractor has thoroughly read and understands this Agreement and the Contract Documents and the nature of this legal commitment and lawfully caused these presents to be executed by Contractor's legally authorized representative and does hereby deliver this legally binding instrument;

DONE at San Antonio, Texas, on the day and year first written above.

(Seal if Agreement is with Corporation)

CLARK CONSTRUCTION OF TEXAS, LTD.
CONTRACTOR

ATTEST:

BY:

DAVID F. CLARK

Secretary

VICE -PRESIDENT

STATE OF TEXAS }

COUNTY OF BEXAR }

This instrument was acknowledged before me on this the _____ day of _____ 20____
by _____, _____ of _____ a
_____ on behalf of said _____.

NOTARY PUBLIC in and for the State of T E X A S

NOTARY'S PRINTED SIGNATURE

MY COMMISSION EXPIRES:

PAYMENT BOND

STATE OF TEXAS }
COUNTY OF BEXAR }
CITY OF SAN ANTONIO }

Know all men by these presents:

1. That we **Clark Construction of Texas, LTD., acting by and through David F. Clark, Vice -President,**
as Principal, and _____

as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the City of San Antonio, a municipal corporation of the County of Bexar and State of Texas in the sum of **\$1,017,827.42** for payment of which sum well and truly to be made in and unto said City of San Antonio, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally:

2. THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said

CLARK CONSTRUCTION OF TEXAS, LTD.

hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said City of San Antonio, for the construction and completion for said City of certain structures, work and improvements generally described as

**STREET OVERLAY AND SIDEWALK RECONSTRUCTION
SOUTH ALAMO AND ST. MARY'S STREET**

**DURANGO TO CEDAR BOULEVARD AND
SOUTH ALAMO STREET TO PEREIDA**

and for the performance and observance of diverse other matters and things in connection with said work, and, interalia, therein entered into covenants and agreements to promptly pay all persons supplying labor, materials and services in the prosecution of the work provided for in said contract; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation;

3. NOW THEREFORE, if Contractor, the Principal party to this obligation shall promptly make payment to all persons supplying labor and materials in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation shall be and become null and void, but otherwise to remain in full force and effect: and it is hereby further understood and agreed that this bond shall be a continuous obligation against the principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had thereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liability of the sureties on this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the City, nor by the exercise or failure to exercise by or on behalf of the City any right or remedy provided by the contract or specifications or by any law or ordinances.

4. It is further understood that this obligation is incurred pursuant to Chapter 2253 of the Texas Government Code, and that this obligation is for the benefit and sole protection of all persons supplying labor and materials in the prosecution of said contract.

5. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this ____ day of ____
_____, A.D. 2006.

6. The foregoing bond is approved and accepted
this _____ day of _____,
20 _____

CLARK CONSTRUCTION OF TEXAS, LTD.

By: _____
David F. Clark, Vice- President

City Manager

Surety

(SEAL)

By: _____

Address of Surety for Service Purposes

PERFORMANCE BOND

STATE OF TEXAS }
COUNTY OF BEXAR }
CITY OF SAN ANTONIO }

Know all men by these presents:

1. That we **Clark Construction of Texas, Ltd.**, acting by and through **David F. Clark, Vice- President**

as Principal, and _____

as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the City of San Antonio, a municipal corporation of the County of Bexar and State of Texas in the sum of **\$1,017,827.42** for payment of which sum well and truly to be made in and unto said City of San Antonio, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally:

2. THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said

CLARK CONSTRUCTION OF TEXAS, LTD.

hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said City of San Antonio, for the construction and completion for said City of certain structures, work and improvements generally described as

**STREET OVERLAY AND SIDEWALK RECONSTRUCTION
SOUTH ALAMO AND ST. MARY'S STREET**

**DURANGO TO CEDAR BOULEVARD AND
SOUTH ALAMO STREET TO PEREIDA**

and for the performance and observance of diverse other matters and things in connection with said work; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation.

3. NOW THEREFORE, if Contractor, the principal party to this obligation shall faithfully construct and complete said structures, work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said contract and all included instruments, according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, work and improvements then and thereupon this obligation shall be and become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had hereon for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liability of the sureties on this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the City, nor by the exercise or failure to exercise by or on behalf of the City any right or remedy provided by the contract or specifications or by any law or ordinance.

4. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this

_____ day of _____ A.D. 20 _____.

5. The foregoing bond is approved and accepted

this _____ day of _____,

2006.

CLARK CONSTRUCTION OF TEXAS, LTD.

By: _____
David F. Clark, Vice-President

City Manager

(SEAL)

Surety

By: _____

Address of Surety for Service Purposes